

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,	:	Case No. 3:21-CR-84
	:	
Plaintiff,	:	District Judge Walter H. Rice
	:	Magistrate Judge Peter B. Silvain, Jr.
vs.	:	
	:	
ALL STEEL CARPORTS, INC,	:	
	:	
Defendant.	:	
	:	

---

---

**REPORT AND RECOMMENDATIONS<sup>1</sup>**

---

---

This case came before the Court for a plea hearing on July 21, 2021. Assistant United States Attorney Brent Tabacchi appeared and represented the Government, and William R. Gallagher appeared and represented Defendant All Steel Carports, Inc. Defendant's authorized representative, Thomas C. Fagerberg, was present with counsel.

Prior to the hearing, the parties entered into a proposed plea agreement pursuant to Fed. R. Crim. P. 11(c)(1)(C), which agreement has been filed of record. (Doc. #12). Under the terms of the plea agreement, Defendant agreed to plead guilty as charged in the Information currently pending against it, which charges it with knowingly conspiring to encourage and induce illegal aliens to remain in the United States in violation of Title 8 U.S.C. § 1324(a)(1)(A)(v)(I). The Court may accept the plea agreement, reject it, or defer a decision until the Court has reviewed the presentence investigation report.

During the plea hearing, the undersigned heard testimony on Defendant's representative's authority to accept a plea on behalf of Defendant. Based on this testimony, the undersigned finds

---

<sup>1</sup> Attached is a NOTICE to the parties regarding objections to this Report and Recommendations.

that Mr. Fagerberg is an officer or authorized representative of Defendant; Defendant's board of directors is empowered to authorize a person to enter a plea of guilty to the charge brought against Defendant; Mr. Fagerberg has been authorized by a valid resolution to enter a plea of guilty to the charge before the Court; and Defendant is financially able to pay a substantial fine that could be imposed by the Court for the charge involved in the plea of guilty.

Furthermore, the undersigned had the opportunity to address Defendant's representative in open court and to inform him of all Defendant's rights and privileges as set forth in Fed. R. Crim. P. 11(b)(1). Further, the undersigned carefully inquired of Defendant's representative regarding his understanding of the agreement, as well as his competence to understand the agreement on behalf of Defendant. Having fully inquired, the undersigned Judicial Officer finds that the tendered plea of guilty as charged in the Information was knowing, intelligent, and voluntary. Additionally, based upon the statement of facts, which were read into the record and affirmed by Defendant's representative, the undersigned finds that there is a sufficient factual basis for finding that Defendant is in fact guilty of knowingly conspiring to encourage and induce illegal aliens to remain in the United States in violation of Title 8 U.S.C. § 1324(a)(1)(A)(v)(I).

Based upon the foregoing, it is **RECOMMENDED** that the District Court accept Defendant's representative's plea of guilty as charged in the Information currently pending against Defendant and find Defendant guilty as charged of knowingly conspiring to encourage and induce illegal aliens to remain in the United States in violation of Title 8 U.S.C. § 1324(a)(1)(A)(v)(I).

Pending the Court's acceptance of Defendant's guilty plea, this matter has been referred to the Probation Department for a pre-sentence investigation and report.

July 26, 2021

s/Peter B. Silvain, Jr.

Peter B. Silvain, Jr.  
United States Magistrate Judge

### NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Crim. P. 59(b)(2), any party may serve and file specific, written objections to the proposed findings and recommendations within **FOURTEEN** days after being served with this Report and Recommendations. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within **FOURTEEN** days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).